THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO : 7464 of 1998

Dated: 10th August, 2005

Between:

The Depot Manager, A.P.S.R.T.C., Mahaboobnagar Depot

… Petitioner

and

1. The Labour Court-III, Hyderabad,
rep. by its Presiding Officer and another

… Respondents

ORDER:

This writ petition is filed by the Depot Manager, Andhra Pradesh State Road Transport Corporation, Mahaboobnagar Depot (for short, 'the Management'), being aggrieved by the award made in I.D.No.646 of 1993, dated 19-07-1997, on the file of Labour Court-III, Hyderabad.

2. It is the case of the petitioner-Management that while the second respondent herein was conducting the bus bearing No.APZ-6146 on the route Raichur to Mahaboobnagar, on 02-11-1977, a check was exercised at Stage No.6. At that time, the checking officials found in all there were 31 passengers, out of whom only one passenger was issued with a ticket. The remaining 30 passengers (19 adults and 11 children) were without tickets. The second respondent-Workman was issued with the charge-sheet dated 08-11-1977 enumerating the following charges:

"Charge No.1. For having violated the rule Issue and Start.

Charge No.2. For having failed to coallect the fare and issue tickets to a batch of 19 adults and 11 children found travelling without tickets from Makthal to Mahaboobnagar ex-stages 17 to 1.

Charge No.3. For having failed to close the ticket tray numbers of all denominations right from 17th stage to the point of check i.e., 6th stage."

Having not satisfied with the explanation submitted by the second respondent-Workman, a detailed enquiry was ordered and the Enquiry Officer submitted his report holding the second respondent herein guilty of the charges. Finally, after following all the formalities, the petitioner-Management has issued final proceedings removing the second respondent-Workman from the service of the Corporation on 13-04-1978. The second respondent-Workman, being aggrieved by the said order of removal, filed an appeal before the Divisional Manager and the same was dismissed on 06-11-1978. Thereafter, the second respondent-Workman did not raise his little finger and belatedly filed the claim petition under Section 2A(2) of the Industrial Disputes Act, 1987 (for short, 'the Act'), before Labour Court-III, Hyderabad, and the same was taken up on file as I.D.No.646 of 1993 and the first respondent-Labour Court has passed an award on 19-07-1997 directing reinstatement of the second respondent-Workman into service with continuity of service, but without any back wages. According to the petitioner-Management, the award passed by the Labour Court is erroneous and liable to be set aside.

3. The second respondent-Workman filed a detailed counter affidavit denying the allegations made by the petitioner-Management and supporting the award passed by the Labour Court.

4. I have given my earnest consideration to the respective submissions made by the learned Counsel on either side and also perused the award passed by the Labour Court and the other material made available on record.

5. At the outset, I am of the opinion that the order passed by the Labour Court is erroneous. The Labour Court has entertained a belated claim petition under Section 2A(2) of the Act after more than 15 years of removal of the second respondent-Workman from service and while considering the matter granting relief, also granted the continuity of service and attendant benefits, however without any back wages. It may be noticed that the second respondent-Workman was appointed

into the service of the Corporation in the year 1977 and he was involved into this grave misconduct on 02-11-1977. After conducting a detailed enquiry into the matter, he was removed from the service with effect from
13-04-1978. Granting of attendant benefits and continuity of service is a reward for the second respondent-Workman for the misconduct he has committed. For the service rendered by him, which is not even one year, he has been rewarded with continuity of service of more than 16 years. This is nothing but atrocious. Insofar as the merits of the case on the face of it, it does not inspire the confidence of the Court. At the time of check by the officials, there were only 31 passengers in the bus and only one passenger was holding valid ticket. The other 30 passengers, who boarded the bus at ex-stage No.17 were bound to Stage No.1. The check had taken place on Stage No.6. Thus, though the bus has traveled more than 11 stages, the second respondent-Workman failed to issue tickets to those 30 passengers who boarded the bus at ex-stage No.17 and travelling up to ex-stage No.6. This is very unfortunate case. However, in view of the award of the Labour Court, the second respondent-Workman has already been reinstated into service. Therefore, I am of the opinion that instead of denying the relief of reinstatement of the second respondent-Workman into service, this is a case where the second respondent-Workman is not entitled for any relief except as a fresh appointment into the service of the Corporation as on the date of reinstatement and he is not entitled for any attendant benefits or continuity of service as was granted by the Labour Court.

6. In the result, the award passed by the Labour Court is modified to say that the second respondent-Workman is entitled for reinstatement as a fresh Conductor and he is not entitled for back wages, continuity of service, attendant benefits for any purpose including terminal benefits. The writ petition is accordingly allowed. No order as to costs.

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C.V. RAMULU, J

10th August, 2005.

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